
EXHIBIT F1

VALLEY FORGE TREATMENT PLANT AGREEMENT, DATED
NOVEMBER 1, 1970, BY AND BETWEEN VALLEY FORGE
SEWER AUTHORITY; THE TOWNSHIPS OF SCHUYLKILL, EAST
PIKELAND, CHARLESTOWN, EAST WHITE LAND, TREDYFFRIN,
WILLISTOWN, AND EASTTOWN; THE BOROUGH OF MALVERN;
MALVERN MUNICIPAL AUTHORITY; EAST WHITE LAND
MUNICIPAL AUTHORITY; TREDYFFRIN TOWNSHIP
MUNICIPAL AUTHORITY; AND EASTTOWN TOWNSHIP
MUNICIPAL AUTHORITY

VALLEY FORGE SEWAGE TREATMENT PLANT AGREEMENT

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VALLEY FORGE SEWAGE TREATMENT PLANT AGREEMENT

THIS AGREEMENT, dated as of the first day of November, A.D. 1970, by and between VALLEY FORGE SEWER AUTHORITY, a joint municipality authority organized by the Townships of Schuylkill, East Pikeland, and Charlestown and operating under the provisions of the Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, its supplements and amendments (hereinafter referred to as the "Authority" and a "municipality"), the TOWNSHIPS OF SCHUYLKILL, EAST PIKELAND, CHARLESTOWN, EAST WHITELAND, TREDYFFRIN, WILLISTOWN, and EASTTOWN, second class townships (each of which is hereinafter called "Township" and "municipality"), the BOROUGH OF MALVERN (hereinafter called "Borough" and "municipality"), MALVERN MUNICIPAL AUTHORITY, EAST WHITELAND MUNICIPAL AUTHORITY, TREDYFFRIN TOWNSHIP MUNICIPAL AUTHORITY, and EASTTOWN MUNICIPAL AUTHORITY (each of which is hereinafter called "municipality authority"), all of which are municipality authorities or political subdivisions within the County of Chester, Commonwealth of Pennsylvania.

WHEREAS, the parties have provided for or constructed, or are about to provide for or construct sanitary sewer collection systems; and

WHEREAS, the parties desire to dispose of sewage described hereinafter by a Treatment Plant to be located on the Schuylkill River in Schuylkill Township, Chester County, Pennsylvania; and

WHEREAS, Malvern, Tredyffrin, East Whiteland, and Easttown have each formed a municipality authority; and

WHEREAS, Willistown Township is about to form a municipality authority and all parties desire that it become a party upon its formation; and

WHEREAS, all parties desire that Valley Forge Sewer Authority shall operate said Treatment Plant but desire to exercise

control over major decisions concerning the design, construction, operation, and expansion of said Treatment Plant; and

WHEREAS, various economies will inure to the benefit of each party from the joint construction and use of the Treatment Plant.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

ARTICLE I

JOINT BOARD AND CONSTRUCTION OF TREATMENT PLANT

1.01 Joint Board. In order to ensure that all parties hereto shall have voice and information concerning the financing, construction, and operation of the Treatment Plant, a Joint Board constituted as set forth in Exhibit "A" attached hereto is hereby created which shall have the powers and duties set forth hereinafter and in said Exhibit "A".

1.02 Engineering Services. Each party hereby approves a contract dated March 20, 1969, between Authority and Buchart-Horn, Consulting Engineers, York, Pennsylvania, for engineering services necessary to design for the use of the municipalities an eight MGD Treatment Plant to be located on the Schuylkill River in Schuylkill Township, Chester County, Pennsylvania. A copy of said contract having been delivered to each party, the municipalities and municipality authorities set forth in Exhibit "B" agree to share the cost of such engineering design in accordance with the percentages set forth in Exhibit "B" attached hereto. The parties hereto likewise agree to share the cost of surveys and test borings incident to the aforesaid design in accordance with said percentages. When payments for such engineering design, surveys, and test borings fall due from time to time, each such municipality, upon receipt of a copy of an invoice from the Consulting Engineers, shall

promptly pay or cause to be paid to Authority for delivery to the Consulting Engineers (or, upon request of Authority, directly to the Consulting Engineers) that percentage of such invoice as is set forth in said Exhibit. The Joint Board shall make arrangements for collecting said payments. Nothing herein contained shall be construed so as to make a party hereto (other than the Authority) a party to the said contract between the Authority and the Consulting Engineers. If any payment required of a party hereto under this Section 1.01 is not made within thirty (30) days of the receipt of the aforesaid copy of invoice, interest shall accrue at the rate of six per cent (6%) per annum from such date.

1.03 Design Capacity; Construction of Treatment Plant.

For each municipality listed in Exhibit "C", said Treatment Plant shall provide the design capacity (reserved capacity) set forth after the name of each municipality in said Exhibit. Authority, in accordance with said contract with the Consulting Engineers, shall cause plans and specifications for said Treatment Plant to be completed. Authority, upon receipt of capital contributions as provided in Article II hereof, shall award construction contracts and cause the Treatment Plant to be constructed with reasonable dispatch, all in accordance with said plans and specifications and sound engineering principles.

1.04 Review and Inspection. Throughout the term of this Agreement, Authority shall cause the Consulting Engineers to make available at reasonable times and places any information concerning the design, construction, and operation of the Treatment Plant reasonably requested by the Joint Board. Members of the Joint Board and the consulting engineers, employees and representatives of any party shall have the right at all reasonable times during construction and thereafter to inspect the construction and operation of the Treatment Plant and all records of Authority in respect thereof. The Authority, at reasonable times, shall receive and

consider the opinions, comments and suggestions of the Joint Board, of any party's consulting engineer and of the representatives of any party.

1.05 Date of Completion of Treatment Plant. Authority and the Joint Board shall make every reasonable effort to cause the Treatment Plant to be completed with reasonable dispatch.

ARTICLE II

CAPITAL CONTRIBUTIONS

2.01 Percentages. Subject to limitations hereinafter provided, each of the municipalities or municipality authorities listed in Exhibit "D" attached hereto (hereinafter referred to in this Article II as the "municipalities") shall pay the percentage of the total project cost of constructing the Treatment Plant set forth after its name in Exhibit "D" (said percentages being referred to hereinafter as "said percentages"). The estimated total project cost of constructing the Treatment Plant is set forth in Exhibit "D". The total project cost of constructing the Treatment Plant shall include construction contract payments, land costs, engineering, surveying, boring and construction supervision fees and expenses (other than those paid for under Section 1.02 hereof), legal fees incident to the construction (including preparation and review of documents needed before construction can commence), a reasonable contingency fund and all other charges, costs and expenses incident to such construction and which are properly chargeable thereto under sound accounting practice but excluding (i) financing costs and (ii) all costs and expenses properly chargeable to the Authority for construction of its sewage collection system under sound accounting practice. Allocation of costs and expenses between the cost of constructing the Treatment Plant and the cost of constructing said collection system shall be subject to adjustment upon

audit as provided for hereinafter.

2.02 Payment of Capital Contributions. No capital contribution in respect of construction shall be due hereunder unless prior to the date of payment plans and specifications for the Treatment Plant and revisions thereof, if any, have been approved by the Joint Board. Disapproval may be based only on sound engineering reasons. Within sixty (60) days of the date on which construction bids are received by the Authority (or, in the event of increased costs requiring approval pursuant to Section 2.03 hereof, within sixty [60] days of approval pursuant thereto), time being of the essence of this Agreement, each of said municipalities listed in Exhibit "D" shall pay to Authority the total of (i) the share of the estimated total project cost of constructing the Treatment Plant set forth in dollars after its name in Exhibit "D", (ii) said percentage of the amount by which the total project cost of constructing the Treatment Plant as stated by the Consulting Engineers after the receipt of construction bids exceeds the estimate set forth in Exhibit "D", up to an increase of fifteen (15%) per cent of said estimate, and (iii) such amount as may be due pursuant to the next succeeding Section hereof.

2.03 Change in Project Cost. In the event, after receipt of construction bids, the total project cost of constructing the Treatment Plant (before deducting any federal or state grant) is increased by more than fifteen (15%) per cent of the estimate set forth in Exhibit "D", and such a revision is approved by the Joint Board (with approval being deemed to have been given if disapproval is not given in writing within thirty [30] days of the date construction bids are received by the Authority), each of the municipalities listed in Exhibit "D" shall pay said percentage of said increase to Authority by the time set forth in the preceding Section. In the event, after receipt of construction bids, the total project cost of constructing the Treatment Plant is less than the estimate set forth in Exhibit "D", the payment to be made by each such municipality

under Sections 2.01 and 2.02 hereof shall be reduced proportionately and refunds of payments made under Section 1.02 shall be made proportionately.

2.04 Grants. Each party authorizes and directs the Authority on behalf of each such municipality or municipality authority from time to time to apply for and accept any one or more grants in aid towards any Treatment Plant construction costs and any Treatment Plant operating costs of any nature to be used in accordance with this Agreement. All federal and state grants received by any such municipality properly allocable to and to be applied to the project cost of constructing the Treatment Plant shall be paid to Authority and the total payment to be made by each municipality under Sections 2.01 and 2.02 hereof shall be reduced proportionately by such grant or grants.

All federal and state grants received by the Authority which are properly allocable to the project cost of constructing the Treatment Plant shall be applied by the Authority to the payment of such project cost or in reimbursement of expenditures so made and the total payment to be made by each municipality under Sections 1.02, 2.01, and 2.02 hereof shall be reduced accordingly. If any such federal or state grants shall have been awarded to the Authority and an agreement with the appropriate federal or state agency executed on or before the date capital contributions are to be made under Section 2.02, then such total payment to be made by each municipality shall be reduced appropriately. If any such federal or state grant is awarded or the agreement with the appropriate federal or state agency executed by the Authority after the aforesaid payments have been made by the municipalities under Section 2.02, such grants shall be applied in the computation of any surplus or deficiency of capital contribution pursuant to Section 2.03 hereof.

All federal and state contributions or grants in aid

received by any of said municipalities properly allocable to and to be applied towards any cost of operation, maintenance, repair, replacement, or other expenses relating to the Treatment Plant shall be paid over to Authority and shall be deducted in determining actual annual operating expenses of the Treatment Plant in accordance with Section 4.07 hereof.

2.05 Construction Fund. Authority shall deposit all amounts delivered by all parties to it pursuant to this Article, together with Authority's share and all amounts received in payment of federal and state grants allocable to the project cost of constructing the Treatment Plant, in a special Treatment Plant Construction Fund (hereinafter called "Construction Fund"). Such Construction Fund moneys shall be held and invested by a Trustee selected by Authority subject to the approval of the Joint Board and to the extent not insured by the Federal Deposit Insurance Corporation or other federal agency, or invested as hereinafter provided, shall be continuously secured by the pledge of direct obligations of the United States of America or of the Commonwealth of Pennsylvania having an aggregate market value (exclusive of accrued interest) at all times at least equal to the amount of such moneys. Such moneys may be wholly or partially invested by said Trustee only in direct obligations of the United States of America and certificates of deposit which shall mature or shall be subject to redemption at the option of the holder not later than one year from the date of such investment. Any securities so purchased shall be a part of the Construction Fund. The interest and income received from time to time upon investments and any profit realized or loss sustained from the sale of such securities shall be added or charged to the Construction Fund and such interest, income, profit or loss shall be considered in the computation of any surplus or deficiency as provided in Section 2.08. Moneys paid pursuant to this Agreement shall at all times be segregated in books of account

from Authority moneys received for any other purpose.

2.06 Construction Fund Requisitions. Authority agrees that payments from the Treatment Plant Construction Fund shall be made only upon requisitions, copies of which shall be available to the Joint Board, duly executed by the Treasurer, Assistant Treasurer or other designated representative of the Authority stating: (a) the amount requested; (b) the obligation for or on account of which the requisition is made, showing separately the total obligation, the amount already paid, if any, and the balance remaining to be paid; (c) the person to whom the payment shall be made and his address; (d) that the item for which requisition is made has not been paid; and (e) that, with respect to such item, there are no vendors', mechanics' or other liens or secured transactions which will not be discharged by such payment.

In the case of payments under construction contracts, such requisitions shall also contain a certificate of the Consulting Engineers certifying approval of the requisition and further certifying that such obligation has been properly incurred and is then due and unpaid and that insofar as such obligation was incurred for work, materials, supplies or equipment, such work was actually performed or such materials, supplies or equipment were actually installed in or about the construction of the Treatment Plant, or delivered at the site of the work for that purpose, or delivered for fabrication at the place approved by the Consulting Engineers; and that all work done and materials, supplies or equipment furnished for which such obligation was incurred are, in the Consulting Engineers' opinion, in accordance with the plans and specifications.

2.07 Change Orders. Authority agrees to notify the Joint Board of all changes or alterations in the Treatment Plant plans and specifications. No change order concerning said plans and specifications in excess of \$25,000 shall be approved by Authority unless it has previously been approved by the Joint Board;

provided, however, that if written notification of disapproval is not received by the Consulting Engineers within ten (10) days of the date request for approval of any change order is delivered to an officer of the Joint Board, such change order shall be deemed to have been approved by the Joint Board. Authority further agrees that, without the prior approval of the Joint Board, no change or alteration will be made in any of the plans and specifications of the Consulting Engineers, in respect to the Treatment Plant, which will cause the cost of construction to exceed the amount available in the Treatment Plant Construction Fund.

2.08 Distribution of Construction Fund. Upon completion of the construction of the Treatment Plant, Authority shall deliver to the Joint Board and to each party a certificate of the Consulting Engineers stating: (a) the fact of such completion and (b) in reasonably itemized form, the actual project costs of constructing the Treatment Plant (i) after deducting therefrom the unexpended contingency fund, if any, and the amount of any applicable federal or state grants paid into the Construction Fund and not previously used to reduce payments in accordance with Section 2.04 and (ii) after making appropriate adjustments in respect of net income, gain or loss from investments. If any municipality's share of the actual cost of constructing the Treatment Plant after adjustments (i) and (ii) is less than the total amount deposited by it as required by this Agreement, the excess of such deposits shall forthwith be refunded to such municipality if no municipality, within sixty (60) days of receipt of said certificate, has requested a readjustment or audit, and, in the event of such a request, shall be refunded promptly after the matter is resolved. A deficiency, if any, incurred in accordance with this Agreement shall be charged to and paid by each such municipality in said percentages and shall be due within thirty (30) days of notice to pay, and if not then paid shall be subject to interest at the rate of six per cent (6%) per annum

until paid. Prior to completion of the Treatment Plant, Authority may make one or more interim distributions on the basis of information then available, which distributions shall be subject to adjustment at the time of final distribution.

2.09 Audit of Project Cost. The said certificate of the Consulting Engineers as to the actual project cost of constructing the Treatment Plant and the records from which it is compiled shall be audited by a certified public accountant selected by the Authority with the approval of the Joint Board, and the expense of such audit shall constitute part of the project cost.

ARTICLE III

DELIVERY AND ACCEPTANCE OF SEWAGE

3.01 Delivery. Each party, at its own expense shall, during the term of this Agreement, cause all sewage emanating from its area designated by diagonal lines on the attached map marked Exhibit "E" to be delivered to the Treatment Plant and may cause so much of the sewage emanating from other areas to be delivered to the Treatment Plant as it desires from time to time. Except as permitted pursuant to Article VII hereof, no municipality or municipality authority shall at any time exceed the capacity then reserved by it.

3.02 Acceptance. Each party operating a sewage collection system shall commence delivering its sewage to the Treatment Plant as soon as practicable after (a) the Treatment Plant is sufficiently complete to provide service (as certified by the Consulting Engineers) and (b) the Valley Creek Trunk Sewer is sufficiently complete to provide service (as certified by the consulting engineers engaged by Tredyffrin Township Municipal Authority). Authority, as soon as practicable after said conditions are met, shall permit connections at the locations shown on Exhibit "E" (and at such other

locations as Authority may agree to, which agreement shall not be unreasonably withheld) and shall accept sewage for treatment and disposal subject to the terms and conditions herein set forth.

ARTICLE IV

OPERATING EXPENSES OF TREATMENT PLANT

4.01 Proportion. Authority, Borough and the Townships of East Whiteland, Tredyffrin, Willistown, and Easttown (which in this Article are referred to as "said municipalities") shall share the operating expenses of the Treatment Plant (as defined in Section 4.06) as follows: the proportion that the volume of sewage (determined as provided herein and by other agreement of the parties) emanating from each said municipality bears to the total volume of sewage received at the Treatment Plant (determined by meter as hereinafter provided) shall be used in calculating the amount that such municipality shall pay for sewage treatment services. Operating expenses of the Treatment Plant for the first two years of operation shall be paid as set forth in Section 4.13 hereof.

4.02 Estimates of Volume of Sewage. In order to provide Authority with working capital for payment of operating expenses of the Treatment Plant, at least one hundred twenty (120) days prior to the end of the first two years of operation of the Treatment Plant, and ^{at} at least one hundred twenty (120) days prior to the start of each calendar year thereafter during the term of this Agreement, each said municipality shall supply or cause to be supplied to Authority and the Joint Board an estimate of the volume of sewage to be discharged from its sewage collection system and to be delivered to the Treatment Plant during the next succeeding calendar year (or portion of a calendar year remaining after the end of the first two years of operation).

4.03 Estimated Treatment Plant Operating Expenses.

Within sixty (60) days after receipt of the estimates provided under the preceding Section, Authority shall prepare, subject to the approval of the Consulting Engineers and the Joint Board (which may approve or disapprove [for reasonable cause] individual items of the budget), and furnish to each of the said municipalities, a budget setting forth (a) the estimated annual operating expenses of the Treatment Plant (including at least ten per cent [10%] for contingencies) and (b) the share of each said municipality of such operating expenses (the share of each said municipality being an amount which is in the same ratio to the total of such expenses as the estimated volume of sewage from such municipality is to the total estimated volume of sewage from all of the said municipalities). If at any time it appears on the basis of past or current meter readings that the estimate of a municipality is substantially inaccurate, the Authority, subject to the approval of the Joint Board, may revise said estimate and such a municipality shall promptly make payments in accordance with the revised estimate. In the event of an unusual contingency, an upward revision of the budget may be made by the Authority with the approval of the Joint Board, which approval shall not be withheld unreasonably; provided, however, that the budget may be exceeded without such prior approval of the Joint Board in an emergency directly affecting operation of the Treatment Plant and certified by the Consulting Engineers to require immediate action. Each such municipality shall make payments in accordance with the revised budget within sixty (60) days of receipt of notice thereof. In the event a municipality is not able legally to obtain funds with which to pay all of its share of the budget increase, any unpaid amount shall be paid by it in the following year together with interest at the rate of six per cent (6%) per annum until paid.

4.04 Payments on Account of Estimated Operating

Expenses. On or before each January 1, April 1, July 1, and October 1 during the term of this Agreement, each such municipality shall pay to Authority (out of legally available current revenues and from sewer rentals) one-quarter (1/4) of its share of the estimated annual operating expenses of the Treatment Plant as determined in accordance with the preceding Section (prorated if the two-year period referred to in Section 4.01 ends during rather than at the start of a quarter). Amounts not paid when due shall be subject to interest in the amount of six per cent (6%) per annum of the amount due. Said interest shall be due from time to time upon the receipt of invoices from Authority. In the event of a default in payment under this Section, Authority may borrow all or part of the amount of such payment due hereunder and may use said interest to pay, or reimburse itself for paying, interest on such borrowed funds. Interest not so used shall be treated as a deduction under Section 4.07 hereof in determining actual annual operating expenses of the Treatment Plant.

Authority shall deposit all moneys delivered by all parties to it pursuant to this Article, together with Authority's share and all amounts received in payment of federal and state contributions or grants in aid to be applied towards any cost of operation, maintenance, repair, replacement or other expenses relating to the Treatment Plant, in a special Treatment Plant Operating Fund (hereinafter called "Operating Fund"). Such Operating Fund moneys shall be invested by Authority and to the extent not insured by the Federal Deposit Insurance Corporation or other federal agencies, or invested as hereinafter provided shall be continuously secured by the pledge of direct obligations of the United States of America or the Commonwealth of Pennsylvania having an aggregate market value exclusive of accrued interest at all times at least equal to the amount of such moneys. Such moneys may

be wholly or partially invested by said Authority subject to the same limitations set forth in Section 2.05. Any securities so purchased shall be a part of the Operating Fund. The interest and income received from time to time upon investments and any profit realized or loss sustained from the sale of such securities shall be added to or charged to the Operating Fund and such interest, income, profit or loss shall be considered in determining the actual annual operating expenses of the Treatment Plant pursuant to Section 4.06 hereof.

~~4.05~~ Annual Statement. Within one hundred twenty (120) days of the close of each calendar year, Authority shall cause to be prepared and submitted to the Joint Board and each of the said municipalities a detailed statement, certified by a certified public accountant engaged by Authority with the approval of the Joint Board, showing the actual annual operation expenses of the Treatment Plant (as defined in the next succeeding Section) and the apportionment of the cost among the said municipalities on the basis of Section 4.01. April

4.06 Actual Annual Operating Expenses of the Treatment Plant. "Actual annual operating expenses of the Treatment Plant" shall mean the sum of the costs referred to in sub-sections (a) through (g) hereof minus the deductions referred to in Section 4.07 hereof:

(a) All the actual reasonable expenses and costs of the adequate, proper operation, maintenance and repair of the Treatment Plant as the same may be constituted from time to time, determined in accordance with sound accounting practices and shall include, without limiting the generality of the foregoing, salaries and wages of operating, supervisory and administrative personnel directly charged to the operation, maintenance and repair of the Treatment Plant (but in the event such personnel are also engaged in other activities of a municipality, shall include only that

proportion of such salaries and wages as is properly allocable to such operation, maintenance and repair on the basis of time spent or services performed; pensions; Social Security or unemployment taxes; chemicals; power; taxes (if any); insurance; administrative expenses; materials and supplies; maintenance; and repairs, improvements and betterments (including ordinary or routine repairs and replacements but not extraordinary replacements or additions of a capital nature which latter shall be treated in the manner provided for expansion in Section 7.02, except to the extent that Article VIII shall apply));

(b) The fees and expenses of the Consulting Engineers employed by Authority billed by the Consulting Engineers to the Treatment Plant concerning the operation, maintenance and repair of the Treatment Plant and in preparing reports and determinations required by this Agreement or the Joint Board;

(c) The fees and expenses of the certified public accountant engaged by the Authority with the approval of the Joint Board to prepare the annual statement;

(d) Fees of consultants of the Joint Board employed in accordance with Exhibit "A";

(e) Interest paid by Authority pursuant to Section 4.04 hereof;

(f) The cost of that portion of the bond of the Treasurer and other officers or employees of the Authority attributable to his or their duties in connection with the Treatment Plant, under sound accounting practice; and

(g) Reasonable Authority expenses incurred in providing service pursuant to this Agreement and attributable to Treatment Plant operating expenses under sound accounting practices.

4.07 Deductions. Any federal or state contribution or grant in aid received by any party which is to be applied towards any cost of operation, maintenance, repair, replacement or other expenses relating to the Treatment Plant shall be paid to Authority and shall be deducted in determining actual annual operating

expenses of the Treatment Plant. Interest properly allocable hereto pursuant to Section 4.04 and interest earned by Authority on funds deposited in the Operating Expense Fund pursuant to Section 4.03 or Section 4.13 shall be deducted in determining such actual operating expenses.

4.08 Refunds or Additional Payments. If any municipality's share of the actual annual operating expenses of the Treatment Plant is less than (or more than) the total amount paid by it under this Article in such calendar year, the excess shall forthwith be refunded to such municipality (or the deficiency shall forthwith be paid by it), ~~if no municipality within sixty (60) days of receipt of an annual statement has requested arbitration in accordance with Article IX, and in the event of such a request, any excess (or deficiency) shall be refunded (or paid) within thirty (30) days after the matter is resolved.~~ Amounts not paid when due shall be subject to interest ^{calculated on the then current prime rate.} ~~in the amount of six per cent (6%) per annum of the amount due and shall be subject to the provisions concerning interest of Section 4.04 hereof.~~

4.09 Use of Funds. Authority agrees that the payments by the municipalities to the Authority on account of their shares of operating expenses of the Treatment Plant shall be applied only for the payment of actual operating expenses as defined in Section 4.06, subject to Section 4.07, and that such payments shall not be applied towards the payment of any other obligation of Authority.

4.10 Books of Account. In order that expenses of Authority which are not properly allocable to the construction or operation of the Treatment Plant shall not be charged thereto, Authority shall keep separate books of account for its collection system and for the Treatment Plant or such books of account and other records which would readily permit such allocation. Said books and records shall be available for inspection by the Joint Board at all times.

4.11 Sewer Rentals. To insure the availability of current revenues adequate to meet its obligations under this Agreement, each said municipality shall impose and collect annual sewer rentals in an aggregate amount sufficient, together with other legally available funds, to equal (a) all sums payable by it to the Authority during the then current calendar year under this Agreement and (b) all sums payable by it to any other person, firm, corporation, municipality or municipality authority during the then current calendar year for or in respect to sewer purposes.

4.12 Discharge of Sewage. Each party shall make every reasonable effort to be ready to begin discharging sewage to the Treatment Plant by the time it is ready to receive sewage.

4.13 Operating Expenses for the First Two Years. Each municipality set forth in Exhibit "F" shall pay to Authority its share of the estimated operating expenses of the Treatment Plant for the first two years of operation set forth after its name in Exhibit "F" (on the basis of reserved capacity) within thirty (30) days of receipt of the certificate of the Consulting Engineers as provided in Section 2.08. Said operating expense moneys for the first two years of operation shall be deposited in an Operating Expenses Fund in the name of the Authority separate and apart from any other fund of the Authority. Investment of such moneys by the Authority shall be made subject to the same limitations set forth in Section 2.05 hereof. Within one hundred twenty (120) days of the close of each of said first two years of operation, Authority shall cause a certified public accountant to prepare and submit to the Joint Board and each participating municipality a detailed statement showing the actual annual operating expenses of the Treatment Plant (as defined in Sections 4.06 and 4.07 hereof) and the apportionment of the cost among the said municipalities on the basis of reserved capacities as set forth in Exhibit "C" hereof. If at the end of the second year of operation the amount deposited

hereunder by any municipality differs from the amount due, refunds or additional payments shall be made pursuant to Section 4.03 hereof.

ARTICLE V
QUALITY OF SEWAGE

5.01 General. The sewage delivered to the Treatment Plant by any municipality or municipality authority shall be within the maximum limits presented below or pretreated to within the limits of Section 5.04.

5.02 Acceptability Standards. The Valley Forge Sewer Authority shall from time to time establish acceptability standards for sewage and industrial waste entering the collection system of any municipality or municipality authority which discharges sewage (directly or indirectly) to the Treatment Plant for the purpose of prohibiting materials or characteristics which would be deleterious to the Valley Forge Sewage Treatment Plant or the treatment process, which standards shall be reasonable and similar to standards imposed with regard to similar facilities. No municipality or municipality authority shall permit discharge directly or indirectly to the Treatment Plant of any sewage or waste so certified to be deleterious, but such certification shall not preclude the municipality or municipality authority from contesting the reasonableness of such determination.

Subject to the foregoing, all municipalities and municipality authorities agree to enact or adopt or cause to be enacted or adopted uniform ordinances, resolutions, rules or regulations to prohibit users of the respective collection systems serving such municipalities from discharging substances failing to meet such acceptability standards and to require all pre-treatment of sewage or other waste necessary to require the same to conform to the

acceptability standards and agree to take all necessary steps in the design and construction of the collection systems and in the subsequent maintenance and operation thereof (including the exercise of appropriate inspection of and control over building connections) to prevent infiltration of storm water and other improper substances into the collection systems.

5.03 Sampling Manholes. For the purpose of determining the characteristics of sewage or wastes, each municipality or municipality authority shall install or cause to be installed a sampling manhole at the point of discharge at the property of any user which the consulting engineer of such municipality or municipality authority considers capable of discharging sewage or wastes not meeting any of such acceptability standards.

5.04 Industrial Wastes. In order to control admission of industrial wastes, no party to this Agreement shall permit any industrial user to connect to or discharge into its collection system any waters or wastes other than sanitary waste without the prior review and approval of the Consulting Engineers. The Consulting Engineers' review (until such time as the following acceptability standards are amended in accordance with Section 5.02 hereof) shall be based on, but not limited to, the following standards:

Waste Characteristics to be Considered. Characteristics of the industrial waste shall not be in general in excess of those listed below:

- 20
- (a) The 5-day 20 degree centigrade B.O.D. (bio-chemical oxygen demand) shall not exceed 250 ppm.
 - (b) The suspended solids content shall not exceed 300 ppm.
 - (c) The total solids content shall not exceed 1,100 ppm.
 - (d) The pH shall not be less than 6.0 nor shall it exceed 9.0.
 - (e) The temperature shall not exceed 150°F.

The waste shall not contain any material requiring unusual processing or expense at the Treatment Plant.

(f) The color shall not be such as to require special treatment to render the effluent acceptable for discharge into the Schuylkill River.

(g) The waste shall not contain grease and oil, inflammable material, non-biodegradable material or any oxygen scavenger, sufficient in quantity to be injurious to the Treatment Plant or interfere with any treatment process or to constitute a hazard to human or animal life.

(h) The waste shall not contain any other solid or viscous material capable of causing obstruction to the flow in the sewers or at the Treatment Plant or any material capable of causing interference with the proper operation of the Treatment Plant.

Where required, in the opinion of the Consulting Engineers, the user shall provide at his expense such preliminary treatment or handling as may be necessary to modify the objectionable characteristics or control the quantities and rates of discharge of such water or wastes as necessary.

Plans, specifications, and any other pertinent information relating to proposed preliminary treatment or handling facilities shall be submitted for review to the Authority and no construction of such facilities shall be commenced until a permit for the connection is obtained in writing from the Authority. Authority shall give a copy of each such permit to Tredyffrin Township and to the municipality in which the industrial user is located.

In order to insure quality compliance and to reduce the possibility of accidental discharges of wastes not conforming each municipality and municipality authority shall sample, test or otherwise examine industrial wastes as often as reasonably necessary to insure quality compliance.

5.05 Combined Sewage and Industrial Wastes. In order to control the sewage entering the Treatment Plant, Authority will sample the discharge from each municipality or municipality

authority periodically to insure that no characteristic is evident which would be deleterious to the Treatment Plant or the treatment process.

The characteristics of each combined sewage and industrial waste discharge shall not be in excess of those listed under Section 5.04 except that the temperature of the combined discharge shall not exceed 100°F.

Each municipality or municipality authority shall provide facilities to prevent the occurrence of septic conditions in the sewers and the sewage delivered to the Treatment Plant.

Should Authority find either the BOD or suspended solids characteristics exceeded as determined in the tests on the periodically obtained samples, the potentially offending municipality or municipality authority shall be notified of the findings and requested to examine the conditions. If at the end of a quarter, Authority determines that the discharge from the municipality or municipality authority is in excess of the characteristics as determined by average test results by periodic sampling, the suspected offender shall be given written notice that its discharge is in excess and that a comprehensive sampling and testing program will be undertaken by Authority to verify the non-compliance and to notify that steps should be taken to rectify the problem.

If, at the end of the quarterly comprehensive test program the problem has not been rectified, a penalty charge as provided in Section 5.06 will be added to that quarter's billing and until the situation is shown to be corrected.

Should Authority find any of the additional characteristics to be in excess or to find the presence of any other untested deleterious material in the course of periodic sampling and testing, the potential offending municipality or municipality authority shall be given notice to take immediate steps to rectify the problem.

5.06 Penalty Charge for BOD and Suspended Solids Excesses. A penalty charge will be added to the Treatment Plant

operating expense charge of any municipality or municipality authority in violation as described in Section 5.05 based on deviations in excess of 250 ppm. of 5-day 20 degree centigrade B.O.D. and 300 ppm. suspended solids content. The penalty charge will consist of a multiplier factor applied to the quarterly volume.

The multiplier shall be determined as follows:

$$\text{Multiplier} = 1.00 + \frac{\text{BOD}_5 - 250}{1000} + \frac{(\text{Suspended Solids} - 300)}{1000}$$

Any member of the formula giving a negative value shall be disregarded. BOD₅ and suspended solids figures shall be the average over a quarterly period based on analyses taken five (5) per week. The method of analyses shall be as described in the most recent edition of "Standard Methods of Analyses of Water and Wastewater."

ARTICLE VI

DETERMINATION OF QUANTITY OF SEWAGE DELIVERED

TO THE TREATMENT PLANT

6.01 Meters or Measuring Devices. In order to measure in gallons the quantity of sewage emanating from Valley Forge Sewer Authority, the Borough of Malvern and the Townships of Tredyffrin, East Whiteland, Willistown, and Easttown, which is delivered to the Treatment Plant (directly or indirectly), the Authority and each of said municipalities shall each, at its expense, construct or cause to be constructed, where feasible, a sewage meter or sewage flow measuring device at each point necessary to determine the volume of such sewage. The above sewage meters and related equipment such as recorders and charts shall be as mutually agreed upon by the Consulting Engineers and the consulting engineers of said municipalities. All metering stations shall provide facilities for

sampling the sewage. The quantity of sewage emanating from Tredyffrin Township shall be determined by subtracting from the metered flow at the Wilson Road Pumping Station the flows from the Borough of Malvern and the Townships of East Whiteland, Willistown and Easttown as measured by meter readings or other method pursuant to this Agreement.

6.02 Treatment Plant Meters. Authority shall construct, operate and maintain a meter at the Treatment Plant for the purpose of measuring the total volume of sewage entering said Plant. In cases where the sum of the flows of each separate municipality (including flows calculated on the basis of EDU's under Section 6.05) does not equal the volume registered at the Treatment Plant, the difference shall be divided proportionately by the following equation:

$$\text{Difference} \times \frac{\text{Separate municipality or municipality authority flow}}{\text{Sum of } \sup{\text{all}} \text{ each municipality or municipality authority flow recorded by Plant meter}} = \text{(Plant Inflow Reading)}$$

Amount added to or subtracted from each municipality or municipality authority flow

6.03 Calibration and Readings. All meters or measuring devices constructed or installed by Authority, the Borough and the Townships of Tredyffrin, East Whiteland, Willistown, and Easttown shall be calibrated by Authority at least once each year and, if requested by the Joint Board or Tredyffrin Township, shall be checked at other times as a cost of operating the Treatment Plant.

Not followed } All readings of each such municipality or municipality authority's meter or measuring device shall be performed by a representative of said municipality, of Authority, and of Tredyffrin Township, and the meters or measuring devices installed by Authority, including the meter at the Treatment Plant, shall be read by a representative

of Authority, of the Joint Board, and of Tredyffrin Township.

Meters or measuring devices shall be read or examined on the date each municipality or municipality authority first connects and on the first day of each quarter of each year during the term of this Agreement to determine the quantity of sewage emanating from each municipality or area served by a municipality authority for the previous quarterly period or portion thereof. Copies of meter readings or measuring device examinations shall forthwith be delivered to each municipality, to Valley Forge Sewer Authority, and to the Joint Board.

6.04 Maintenance and Operation. All meters and measuring devices used for the purpose of determining flows into the Valley Creek Trunk Sewer and used for billing purposes will be routinely serviced and inspected by Authority as a part of the Treatment Plant operating expense. Authority shall undertake to have an inoperative or inaccurate meter or measuring device repaired as soon as practicable with the cost of such repair being charged back to the owner. Valley Forge Sewer Authority shall not be obligated to provide service to any devices other than the primary metering element, recorders, transmitters and other instruments. Each municipality or municipality authority shall at its own expense be responsible for all other maintenance and operation of its sewage metering facilities.

6.05 Missing or Inaccurate Flow Records; Use of Equivalent Dwelling Units as Measurement of Flow. In the case of missing flow records due to faulty meter registration or otherwise, an estimate of flows shall be made by the Consulting Engineers for the purpose of determining volume of sewage discharges. This estimate will be based on a valuation of past flow records as applied to the then existing conditions and as reviewed and approved by the consulting engineer of the respective municipality or municipality authority.

In the absence of meter readings during the early period of low flows, when the sewage recording meters may not register the flow, or where meters cannot practically be installed, flow quantities shall be determined on the basis of the average number of Equivalent Dwelling Units (upon the basis of a discharge rate of 275 gallons per day per Equivalent Dwelling Unit). The number of Equivalent Dwelling Units shall be determined at the beginning and end of each calendar quarter during the term of this Agreement based upon a certification by a responsible officer of the municipality or municipality authority as to the number of such Equivalent Dwelling Units so connected by the municipality or municipality authority at the beginning and end of each quarter and shall be averaged on the basis of the number of units so connected at the beginning and end of each such quarter. Where the initial connection of the collection system of any municipality or municipality authority is made to the Valley Creek Trunk Sewer after the first day of a calendar quarter, the quantity of sewage so discharged shall be based on the number of Equivalent Dwelling Units so connected at the end of such quarter prorated on the basis of the number of days in such calendar quarter that any sewage is so discharged from such municipality or municipality authority. For the purpose of determining the number of Equivalent Dwelling Units represented by schools, churches or municipal buildings, commercial or industrial establishments, etc., the factors set forth in Exhibit "G" shall be applied. The officials and representatives of Authority or Tredyffrin Township may inspect the records of any connecting municipality or municipality authority for the purpose of determining the accuracy of the number of Equivalent Dwelling Units certified by such municipality or municipality authority.

6.06 Partial Check on Faulty Meters. For the purpose of attempting to discover faulty meters, Authority shall undertake to prepare, as a Treatment Plant operating expense, a complete

distribution of the total volume of sewage received and metered at the Treatment Plant during each calendar quarter and during each calendar year, with respect to each municipality or municipality authority which discharges sewage that is treated in the Treatment Plant, such distribution to include all metered and unmetered sewage flows of each municipality or municipality authority and such adjustments as are calculated under Section 6.02.

ARTICLE VII

EXPANSION

7.01 Renting Unused Capacity. Each municipality or municipality authority (hereinafter referred to in this Article VII as "municipalities") discharging from its sewage collection system to the Treatment Plant during a calendar year a volume of sewage less than its reserved capacity, as set forth in Exhibit "C", shall be deemed to have placed its unused capacity in a rental pool. Any municipality (herein called "lessee municipality") discharging sewage to the Treatment Plant in any calendar year in excess of its reserved capacity, as set forth in Exhibit "C", shall rent from the pool for the entire calendar year capacity equal to the volume by which it exceeds its reserved capacity (with the total volume discharged by it being reduced to gallons per day by dividing the total gallons discharged by it in such calendar year by 365). The annual rental fee to be paid by the lessee municipality shall be the representative annual "debt service" (calculated at equal annual payments to amortize the "debt," including seven per cent [7%] interest per annum for a twenty-five (25) year term) for the amount obtained by multiplying the fraction of the rated capacity of the Treatment Plant rented for the current calendar year by the total of capital contributions made by all parties hereto toward the cost of providing the Treatment Plant as then being used. The capacity thus

rented by the lessee municipality shall be rented annually by it until the next expansion of the Treatment Plant, at which time the lessee municipality shall surrender the capacity rented by it and shall, at its expense, replace the capacity rented by it so that each lessor municipality will receive back its reserved capacity placed in the pool. In no event shall any contribution of capacity to the rental pool be construed to decrease the reserved capacity in the Treatment Plant of any lessor municipality.

The rental fees shall be distributed to the contributors to the rental pool in proportion to their contributions (the contribution as to each being the difference between its actual flow during the current calendar year [reduced to gallons per day] and its reserved capacity). The rental fee owed by each lessee municipality, together with the proposed distribution thereof to the lessor municipalities, shall be shown as separate items in the annual statement furnished pursuant to Section 4.05 hereof. Rental fees owed shall be paid by each lessee municipality to Authority within sixty (60) days of receipt of said annual statement unless arbitration has then been requested, and in such event shall be paid within thirty (30) days of the date the matter is resolved pursuant to the procedure set forth in Section 9.01 hereof. Distribution of the rental fees shall be made by Authority promptly thereafter as provided herein.

Although rental payments shall be paid and distributed hereunder on the basis of actual flows, the total estimates of sewage to be discharged to the Treatment Plant in a calendar year pursuant to Section 4.02 hereof shall be used to avoid exceeding the rated capacity of the Treatment Plant. In the event that the total of said estimates, pursuant to Section 4.02, exceeds ninety per cent (90%) of the rated capacity of the Treatment Plant (with the remaining ten per cent [10%] being used as a safeguard against underestimation), the Consulting Engineers shall allocate the capacity in the

pool (as estimated) among the municipalities estimating discharge in excess of their reserved capacities in proportion to their flows during the preceding calendar year; provided, however, that any municipality may continue to rent the number of gallons of capacity previously rented by it. No municipality shall permit any new connection to be made to its collection system or permit increased flow from any existing connection (due to construction and connection to the system of additional facilities) if so permitting might cause its volume of sewage discharged to the Treatment Plant at peak flows during such calendar year to exceed the total of its reserved capacity and the capacity in the pool allocated to it by the Consulting Engineers for such year.

6.4
7.2
7.02 Increased Capacity. At such times as (a) eighty per cent (80%) of the rated capacity of the Treatment Plant is used or (b) estimates of volume under Section 4.02 exceed ninety per cent (90%) of said rated capacity, or (c) in the event reconstruction, repair, replacement, enlargement or improvement of the Treatment Plant or any part thereof is required to meet standards prescribed by the Sanitary Water Board of the Pennsylvania Department of Health or any other governmental authority having jurisdiction, the Authority, after approval by the Joint Board, which may be withheld only for sound engineering reasons, shall take all measures reasonably necessary or appropriate (i) to provide for the replacement of capacity borrowed pursuant to Section 7.01 hereof and to provide increased capacity to meet the reasonably anticipated needs of the parties pursuant to Section 3.01 hereof by the enlargement of structures, the installation of additional tanks or equipment, or other improvement or (ii) to provide for such reconstruction, repair, replacement, enlargement or improvement required to meet such standards; and each municipality or municipality authority named in Exhibit "B" (including, in the event Authority is unable otherwise to obtain the necessary funds, the Townships of Schuylkill,

S.W. 2nd approval is necessary

-28-

1st conceptual approval of project

2nd detailed plans and spec

East Pikeland and Charlestown, with the Consulting Engineers determining how the Authority's share is to be apportioned among them) agrees to pay or cause to be paid to the Authority (but only from legally available current revenues, sewer rentals available and funds which can legally be borrowed) its proportionate share of the expenses thus incurred.

The necessity for and the extent of such increased capacity (with a breakdown by municipality or municipality authority on the basis of the respective proportion of the increased reserved capacity) shall be determined by the Consulting Engineers, subject to the approval of the Joint Board (which approval may be withheld only for sound engineering reasons), after consultation with the consulting engineers of each of the municipalities and municipality authorities and written notice of such determination together with the Consulting Engineers' estimate of the cost thereof (with a breakdown by municipality or municipality authority on the basis of the respective proportions of the increased design capacity to be reserved for each municipality) shall be given to each municipality, municipality authority, and Joint Board. To the extent that it is possible to segregate upgrading (to meet standards of a governmental authority) from expansion (to provide increased capacity), the expense of upgrading shall be allocated and paid on the basis of the their current reserved capacities. Adjustment shall be made so that each lessee municipality pursuant to Section 7.01 hereof bears the expense of replacing the capacity rented by it and each lessor municipality receives back its reserved capacity placed in the pool. In the event of failure of Authority and the Joint Board to agree, the Authority may submit the matter to arbitration as provided in Article IX hereof.

Time of payment and calculation of project cost shall be in the same manner as that provided in Article II hereof. Each party authorizes and directs Authority on behalf of each

municipality and municipality authority from time to time to apply for and accept any one or more grants in aid towards the aforesaid provision of increased capacity or reconstruction, repair, replacement, enlargement or improvement.

7.03 Construction Fund. Moneys paid pursuant to this Article shall be deposited, held and disbursed pursuant to the Construction Fund provisions set forth in Article II hereof.

ARTICLE VIII

INSURANCE AND DAMAGE OR DESTRUCTION

8.01 Insurance on Treatment Plant. Authority agrees that (a) during the construction of the Treatment Plant it will at all times cause to be in force builders' risk insurance (or equivalent coverage) upon any work done or materials furnished under construction contracts except foundations and any other structures not customarily covered by such insurance, such policies to be written in completed value form for one hundred per cent (100%) of the insurable value of the contracts and (b) upon completion of such construction it will at all times as a Treatment Plant operating expense cause the Treatment Plant to be insured against loss or damage by fire or other casualty in such amount and against such risks as are usually carried with respect to like properties, provided that the amount of such insurance shall be sufficient to prevent the insured from becoming a co-insurer thereunder by reason of any co-insurance clause in the policies. All such insurance policies shall (a) be written by responsible insurance companies authorized and qualified to do business in Pennsylvania, (b) be non-assessable and (c) name as the insureds the Authority and the Trustee of the trust indenture executed by Authority to secure its bonds issued to provide for the construction in whole or in part of the Treatment Plant and, in addition, during any period of repair or

construction the contractors engaged in such repair or construction, and to the extent procurable shall not be cancellable without at least fifteen (15) days' prior written notice to such named insureds. The Authority agrees to furnish to each municipality before commencing operation of the Treatment Plant and before the start of each year during the term of this Agreement a certificate of the Consulting Engineers stating the amount and kind of such insurance in effect for the ensuing year and that the same, in the opinion of the Consulting Engineers, complies with the provisions of this Section.

8.02 Repair or Reconstruction with Insurance Proceeds.

In the event of any damage to the facilities covered by such insurance, the Authority, upon receipt of the necessary funds as provided for herein, shall promptly repair or replace the damaged property unless the Consulting Engineers certify that it would not be practical and advantageous to do so. It is agreed that in the absence of such a certification, the proceeds of all insurance coverage to the extent necessary shall be applied to such repair or reconstruction.

8.03 Repair or Replacement not Covered by Insurance Proceeds. In the event that it shall be necessary in order to treat and dispose of sewage in accordance with the purport and intent of this Agreement to make an extraordinary repair or replacement of the Treatment Plant because of damage or destruction by casualty or otherwise, and there are insufficient funds available from insurance proceeds to pay the costs and expenses thereof, the Authority (or in the event it cannot otherwise obtain funds, the Townships of Schuylkill, East Pikeland and Charlestown with the Authority's share being apportioned among them by the Consulting Engineers), the Borough and the Townships of East Whiteland, Willistown, Tredyffrin and Easttown shall forthwith pay over to Authority (but only from legally available current revenues, sewer rentals available and

borrowed funds) for deposit in a special construction fund such amount as is required for the purpose, in the same proportions as capital contributions toward the construction of the Treatment Plant were made by each. In the event the funds available to any municipality from the above sources are insufficient to pay the amount due from it and it is unable to borrow the same, payment shall be made at such times as shall be determined by the Joint Board.

8.04 Providing Capacity by a Means Other than Repair or Reconstruction of the Treatment Plant. In the event that proceeds of insurance resulting from damage to the Treatment Plant are not applied to the repair or replacement of the damaged property because the same is determined to be impractical and not advantageous (pursuant to Section 8.02 hereof) such proceeds shall be applied toward the provision of capacity pursuant to Section 7.02 hereof. In such event, credit for funds so applied shall be given to the municipalities in the same proportions as capital contributions toward the project cost of the Treatment Plant were made by each.

ARTICLE IX

ARBITRATION

9.01 Arbitration as to Charges under Articles II and IV.

In the event any disagreement shall arise concerning the charges provided in Articles II and IV and the parties with the assistance of the Joint Board cannot otherwise promptly resolve the same, such disagreement shall be submitted within ten (10) days of the time any party requests arbitration to a certified public accountant appointed by a method agreed upon by the Authority and the Joint Board. In the event of failure to agree upon an arbitrator within ten (10) days, an arbitrator shall be appointed by the Senior Judge of the Court of Common Pleas of Chester County available at the time either Authority or the Joint Board requests appointment of an arbitrator. The decision of the accountant or arbitrator so chosen shall be binding and shall be rendered within twenty (20) days. Any request for such arbitration shall be made within sixty (60) days after receiving a certificate under Section 2.08 or a statement under Section 4.05, Section 4.13, or Section 7.01, and if no such request is made, the certificate or statement shall be considered correct and not subject to future questions. The fee of said certified public accountant or arbitrator shall be a Treatment Plant operating expense.

9.02 Other Arbitration. In the event any disagreement shall arise as to the interpretation of any provisions hereof or the rights and obligations of the parties hereunder (other than disagreements provided for in Section 9.01) and the parties with the assistance of the Joint Board cannot otherwise promptly resolve the same, such disagreement shall be submitted within ten (10) days of the time any party requests arbitration to a Board of Arbitrators whose decision shall be binding and

shall be rendered within twenty (20) days. Such Board shall consist of the Consulting Engineers, consulting engineers selected by the Joint Board and a third professional engineer licensed in Pennsylvania selected by the two consulting engineers; provided, however, that the Authority and the Joint Board may agree to select arbitrators other than engineers or may agree to submit the matter to a single arbitrator. In the event of failure of the engineers to agree upon a third engineer, the same shall be appointed in the manner set forth in Section 9.01 hereof. The fees of all arbitrators shall be a Treatment Plant operating expense.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.01 Operation of Treatment Plant. The Authority agrees that it will, for and during the term of this Agreement by use of funds provided hereunder, operate and maintain the Treatment Plant and that it will keep the same in good order and repair, save where prevented from doing so by act of God or riot, rebellion, sabotage, act of the public enemy or public calamity, in which event the Authority may suspend operation of the said Treatment Plant until the cause of such suspension shall no longer exist and for such reasonable time thereafter as may be required to effect a resumption of operations. Authority shall at no time and under no circumstances be liable to any party for any damages in case of failure or inadequacies of said Treatment Plant to receive, treat or dispose of sewage.

10.02 Operation of Collection Systems. Each party agrees that during such time as it operates a sewage collection system it will continuously operate and keep and maintain its

collection system at all times in first-class repair, order and efficient operating condition and will meet the standards prescribed by the Sanitary Water Board of the Pennsylvania Department of Health or any other governmental authority having jurisdiction. Each party agrees to pay the cost of any damage to the Treatment Plant or fine imposed upon Authority resulting from discharge of improper sewage from such party's collection system in violation of this Agreement or from improper operation or maintenance of such party's collection system. Each party agrees to indemnify and save harmless all of the other parties against all costs, losses or damage on account of any injury to persons or property occurring in the performance of this Agreement due to the negligence of such party or its servants, agents or employees.

10.03 Leases. In the event that any municipality authority shall at any time lease its collection system to a municipality, any right or obligation of such authority under this Agreement may be exercised and shall be performed, as the case may be, by the municipality instead of the municipality authority to the extent that it may legally do so. When, by reason of the termination of any collection system lease, or for any other reason, any municipality authority shall be in possession of its collection system, then without any further act or agreement such municipality authority shall succeed to and become vested with all of the rights, powers, duties and obligations under this Agreement granted to or imposed upon the municipality which created such authority.

10.04 Public Utility Law. In the event that the Commonwealth of Pennsylvania should subsequently lawfully confer jurisdiction of the subject matter of this Agreement upon the Pennsylvania Public Utility Commission in whole or in part, the parties shall, if requested so to do, proceed forthwith to obtain

all necessary power, right and authority from the said Public Utility Commission or other proper agency of such Commonwealth in order to carry out the terms, provisions and intendment hereof.

10.05 Permits. In the event that it may be necessary for the proper performance of this Agreement on the part of the Authority to apply to any governmental or other agency for any permit or license to do or perform any act or thing contemplated hereby, and if such application must be made by a municipality rather than by the Authority, the municipality affected agrees that it will execute the required application upon request by the Authority, it being understood that in executing such application the municipality shall not assume any obligations beyond those for which it would have been responsible had the Authority made the said application.

10.06 No Joint Liability. With the exception of a municipality and a municipality authority organized by such municipality, no party shall be held to be jointly liable in the event of failure of any party to perform and discharge its obligations under this Agreement, it being the intent hereof that this shall constitute the separate agreement of each of the several parties named herein and default by any party in the discharge of any obligation resting upon it hereunder shall not relieve any other party from full performance of and compliance with the terms hereof.

10.07 Connections. Prior to the completion of construction of the Treatment Plant, Borough and each Township which is a party hereto will (to the extent that it has not done so prior thereto) take all action which may be legal and necessary to compel all properties located within its territorial limits and then capable or thereafter becoming capable of being served by the municipality's collection system (or

that of Authority) to be connected therewith. Sewage need be delivered to the Treatment Plant only from areas designated as service areas on the attached Exhibit "E."

10.08 Records. Each party agrees to make available at all reasonable times to the Joint Board, Authority and employees, agents and representatives of either, access to all records relating to matters covered in this Agreement and access to the physical facilities of each party in order to assure compliance with the terms and provisions of this Agreement. A copy of all ordinances, resolutions, rules and regulations adopted by each party from time to time, pursuant to this Agreement, shall be furnished to Authority and the Joint Board within thirty (30) days after enactment.

10.09 Severability. Should any one or more of the provisions of this Agreement for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement; and this Agreement shall, in such circumstances, be construed and enforced as if such illegal or invalid provision had not been contained herein.

10.10 Term. This Agreement shall become effective upon its execution and delivery by all the parties hereto and shall remain in effect for forty (40) years and thereafter shall be terminated only by mutual agreement of all parties.

Nov
2010

10.11 Joinder of Authority to be Formed by Willistown Township.

A municipality authority to be formed by Willistown Township may become a party hereto by duly executing this Agreement.

10.12 Definitions. The following terms and phrases shall have the following meanings whenever used herein:

(a) "Consulting Engineers" means Buchart-Horn, Consulting Engineers, York, Pennsylvania, and in the event said firm ceases to serve as the Consulting Engineers for

Authority, an engineering firm or professional engineer having a favorable reputation for skill and experience in the construction and operation of sewage treatment plants, registered in Pennsylvania and chosen by the Authority with the advice and consent of the Joint Board.

(b) "Equivalent Dwelling Unit" means any room, group of rooms, house trailer or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of persons living together or by persons living alone.

(c) "Industrial User" means any improved property used, in whole or in part, for manufacturing, processing, cleaning, laundering or assembling any product, commodity or article or from which any process waste, as distinct from sanitary sewage, is discharged.

(d) "Industrial Wastes" means any and all wastes discharged from an industrial establishment or by an industrial user, other than sanitary sewage.

(e) "Sewage," "Wastewater," "Sanitary Sewage" and "Sanitary Waste" means normal water-carried household and toilet wastes from any improved property to the extent permitted by Article V and industrial wastes to the extent permitted by Article V.

(f) "Improved Property" means any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human being or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

(g) "pH" means the logarithm of the reciprocal of the concentration of hydrogen ions, expressed in grams per liter of solution, indicating the degree of acidity or alkalinity of a substance.

(h) "B.O.D." means biochemical oxygen demand.

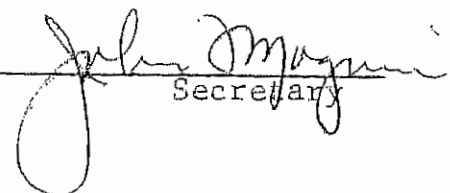
10.13 Execution. This Agreement may be executed in any number of counterparts each of which may be deemed an original.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed and attested by its proper officers, pursuant to proper action of its proper governing body, as of the day and year first above written.

TREDYFFRIN TOWNSHIP MUNICIPAL AUTHORITY

By: 
Chairman

ATTEST:

By: 
Secretary

(AUTHORITY SEAL)

TOWNSHIP OF TREDYFFRIN

ATTEST:

By: James H. Kennedy
Chairman, Board of Supervisors

By Emily J. Pease
Secretary

(TOWNSHIP SEAL)

TOWNSHIP OF SCHUYLKILL

ATTEST:

by: M. Michael Carpenter
Chairman, Board of Supervisors

By R. B. Rust
Secretary

(TOWNSHIP SEAL)

TOWNSHIP OF EAST PIKELAND

ATTEST:


By: John F. Seager Chair
Chairman, Board of Supervisors

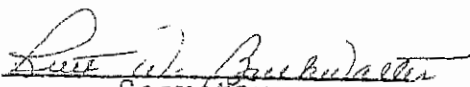
By Walter D. Zinter
Secretary

(TOWNSHIP SEAL)

TOWNSHIP OF CHARLESTOWN

ATTEST:

By 
Chairman, Board of Supervisors

By 
Secretary

(TOWNSHIP SEAL)

TOWNSHIP OF EAST WHITELAND

ATTEST:

By: Edwin R. Long
Chairman, Board of Supervisors

By J. Donald Rasmussen
Secretary

(TO TOWNSHIP SEAL)

TOWNSHIP OF WILLISTOWN

ATTEST:

By Wm D Shaver
Chairman, Board of Supervisors

By John L. Shaver
Secretary

W. H. Hawken

Joseph H. Young, Jr.

(TOWNSHIP SEAL)

TOWNSHIP OF EASTTOWN

By: *Amos H. Smith*
Chairman, Board of Supervisors

ATTEST:

By *John Farber*
Secretary

(TOWNSHIP SEAL)

BOROUGH OF MALVERN

By:

James E. Miller

Mayor

President of Borough Council

ATTEST:

By

Rich. P. Dineen

Secretary

(BOROUGH SEAL)

VALLEY FORGE SEWER AUTHORITY

ATTEST:

By: Joseph W. Keintz
Chairman

By: Andrew Thayer
Secretary

(AUTHORITY SEAL)

MALVERN MUNICIPAL AUTHORITY

ATTEST:

By Henry B. Shirley
Chairman

By Richard L. Keyser DP J
Secretary

EAST WHITELAND MUNICIPAL AUTHORITY

By:

John D. Haines
Chairman

ATTEST:

By

Robert R. Holman
Secretary

(AUTHORITY SEAL)

EASTTOWN MUNICIPAL AUTHORITY

ATTEST:

By: Ronald W. Hughes
Chairman

By

George P. Thomas, Jr.
Secretary

(AUTHORITY SEAL)

EXHIBIT "A"

JOINT BOARD

The Borough of Malvern and the Townships of Schuylkill, East Pikeland, Charlestown, East Whiteland, Tredyffrin, Willistown and Easttown shall each appoint one member of the Joint Board for initial terms as follows:

Malvern	1 Year
Schuylkill	2 Years
East Pikeland	3 Years
Charlestown	4 Years
East Whiteland	5 Years
Tredyffrin	1 Year
Willistown	2 Years
Easttown	3 Years

and shall thereafter from time to time, as the term of its representative expires, appoint a member for a term of five (5) years. If a vacancy occurs by reason of the death or resignation of a member, the municipality that appointed him shall appoint a successor to fill his unexpired term. A member may be recalled and replaced by the appointing municipality. In the event a member cannot attend a meeting, the municipality that appointed him may send an informed representative who shall have the right to vote.

Five members shall constitute a quorum and the acts of a majority of the members present at a meeting at which a quorum is present shall be binding acts of the Joint Board. The Joint Board may from time to time adopt Rules and Regulations governing its method of operation but shall hold special meetings as may be required in order not to delay construction of the Treatment Plant. The Joint Board shall not unreasonably withhold or delay approval of any matter requiring its approval.

If the Joint Board desires legal advice in addition to that which is provided by counsel for the Authority or accounting services, it may employ such with the fees being paid as an annual operating expense of the Treatment Plant under Section 4.06(d).

No more than one person shall be at the same time a member of Valley Forge Sewer Authority and of the Joint Board.

The powers and obligations of the Joint Board shall be as set forth inter alia in the following sections of this Agreement:

- 1.02 (Collecting payments for engineering services)
- 1.04 (Reviewing, inspecting and advising)
- 2.02 (Plans and specifications are subject to approval of Joint Board)
- 2.03 (Total project cost in the event the same exceeds the estimated total project cost as set forth in Exhibit "D" hereof by more than 15% is subject to approval of Joint Board)
- 2.05 (Selection of Trustee for Construction Fund is subject to approval of Joint Board)
- 2.06 (Receiving requisitions)
- 2.07 (Change orders in excess of \$25,000 are subject to approval of Joint Board)
- 2.08 (Receiving certificate as to distribution of Construction Fund with each municipality having the right to request audit)
- 2.09 (Selection of Certified Public Accountant to prepare said certificate is subject to approval of Joint Board)
- 4.03 (Budget and revisions thereof are subject to approval of Joint Board)
- 4.05 (Receiving annual statement with each municipality having the right to request audit)
- 4.06(c) (Selection of Certified Public Accountant to prepare annual statement is subject to approval of Joint Board)
- 4.06(d) (Payment of fees of consultants of Joint Board)
- 4.10 (Inspection of all Authority books of account)
- 4.13 (Trustee for Operating Expenses Fund is subject to approval of Joint Board)

- 7.02 (Extent of increased capacity and apportionment of payment therefor is subject to approval of Joint Board)
- 9.01 and 9.02 (Attempting to resolve disagreements and selecting arbitrators)
- 10.08 (Access to records and physical facilities)

EXHIBIT B

ESTIMATED
ENGINEERING COST DISTRIBUTION
FOR DESIGN SERVICES

Engineering Cost to Design and Bid Project

\$260,000

Name of Party	Reserve Capacity MGD	% of total re- serve capacity	Engineering Cost
Valley Forge Sewer Authority	2.00	26.60	\$ 69,160
Tredyffrin Township Municipal Authority	1.50	19.90	51,740
East Whiteland Municipal Authority	1.60	21.20	55,120
Malvern Municipal Authority	0.53	7.05	18,330
Willistown Township	1.00	13.30	34,580
Easttown Township Municipal Authority	0.90	11.95	31,070
Totals	<u>7.53</u>	<u>100.00</u>	<u>\$260,000</u>

EXHIBIT C

RESERVE CAPACITIES

<u>Name of Party</u>	<u>Reserve Capacity MGD</u>
Valley Forge Sewer Authority	2.00
Tredyffrin Township Municipal Authority	1.50
East Whiteland Municipal Authority	1.60
Malvern Municipal Authority	0.53
Willistown Township	1.00
Easttown Township Municipal Authority	<u>0.90</u>
Total Reserve Capacity	7.53 MGD

Nominal Design Capacity of Plant will be 8 MGD but all cost distribution based on 7.53.

EXHIBIT D
ESTIMATED
PROJECT COST DISTRIBUTION

Construction Cost Estimate	\$5,120,000
Engineering & Resident Supervision	454,500
Land Acquisition & Right of Way	120,000
Administration and Accounting Costs	35,000
Preliminary Operating Expenses	60,000
Legal Expenses	50,000
Project Contingency	400,000
Project Cost Estimate	<u>\$6,239,500</u>
Total P. L. 660 Eligible Cost	\$6,119,500
*50% Estimated Total P. L. 660 Grant	\$3,059,750
Estimated Project Cost to be Distributed	\$3,179,750

DISTRIBUTION

	<u>% of Total Project Cost</u>	<u>Estimated Cost</u>
Valley Forge Sewer Authority	26.60	\$ 845,814
Tredyffrin Township Mun. Authority	19.90	632,770
E. Whiteland Municipal Authority	21.20	674,107
Malvern Municipal Authority	7.05	224,172
Willistown Township	13.30	422,907
Easttown Twp. Municipal Authority	<u>11.95</u>	<u>379,980</u>
Total	100.00	\$ 3,179,750

*Note: Estimated cost to be distributed is controlled by State and Federal Grants. The 50% is an assumption. For possible variations based on various P. L. 660 grant percentages see the following sheet.

VALLEY FORGE SEWAGE TREATMENT AGREEMENT

Alternates of Exhibit D for Varying P. L. 660 Grants

	Alternate #1		Alternate #2	
Federal Grant	30%		30%	
State Grant	0%		30%	
Federal Grant for Regional	3%		3%	
Total	33%		63%	
Estimated Project Cost (1)	\$6,239,500		\$6,239,500	
Eligible Cost	6,119,500		6,119,500	
P. L. 660 Grant	2,019,435		3,855,285	
Estimated Project Cost to be Distributed	4,220,065		2,384,215	
Distribution	% of Total			
	Project Cost			
Valley Forge Sewer Authority	26.60	\$1,122,537	\$	634,201
Tredyffrin Twp. Mun. Auth.	19.90	839,793		474,459
E. Whiteland Mun. Authority	21.20	894,654		505,454
Malvern Municipal Authority	7.05	297,515		168,087
Willistown Township	13.30	561,268		317,101
Easttown Twp. Mun. Authority	11.95	504,298		284,913
Totals	100.00	\$4,220,065		\$2,384,215

(1) See Basic Exhibit D for Breakdown

EXHIBIT F
ESTIMATED
FIRST TWO YEAR OPERATING COST
Basis - 3.8 MGD Average Flow

I. Estimated First Two Year Operating Cost

Personnel	\$177,000.00	
Electric Power & Light	150,000.00	
Fuel Costs	10,000.00	
Water	1,200.00	
Ash Disposal	3,000.00	
Chemicals - Chlorine	10,000.00	
Laboratory Supplies	1,350.00	
Building Maintenance	3,250.00	
Equipment Maintenance	45,000.00	
Truck Maintenance	1,000.00	
Miscellaneous	2,000.00	
Total I		\$403,700.00

II. Estimated First Two Year Administrative Cost

Salaries and Expenses - Authority	\$ 2,000.00	
Salary - Secretary	9,600.00	
Office Supplies and Expenses	3,000.00	
Consulting Engineer	7,200.00	
Legal	1,500.00	
Audit	2,000.00	
Insurance and Bonds	3,000.00	
Social Security	9,000.00	
Total II		\$ 37,300.00
Total I and II		\$441,000.00

Act 339 Annual Operating Cost Grant - 2% of cost of eligible project items
not covered by Grant.

\$6,113,500 Eligible Items
3,059,750 Grant (50%)
\$3,059,750

$\$3,059,750 \times 0.02 = \$61,195/\text{year} \quad \times 2 \text{ years} = \$122,390$

Net First Two Year - Estimated Operating Expense to be distributed = \$318,610

	<u>% total reserve cap.</u>	<u>Est. Operating Cost</u>
Valley Forge Sewer Authority	26.60	\$ 84,750
Tredyffrin Twp. Mun. Authority	19.90	63,404
E. Whiteland Mun. Authority	21.20	67,545
Malvern Municipal Authority	7.05	22,462
Willistown Township	13.30	42,375
Easttown Township Municipal Authority	11.95	38,074
	<u>100.00</u>	<u>\$318,610</u>

FACTORS FOR DETERMINATION OF
EQUIVALENT DWELLING UNITS

<u>Classification</u>	<u>Number of E. D. U.</u>
A. Each private dwelling or living unit	1
B. Each fire house or municipal building	1
C. Each church	1
D. Each public or private day school Elementary, junior or senior high school Based on the daily average number of pupils enrolled on days when the school was in session during the quarter immediately preceding the date for determination of the number of connections, divided by the factor of 20. Teachers and employees shall be classi- fied as pupils. Average enrollment shall be determined annually.	
E. Each retail gas station without car washing facilities	2
F. Each retail gas station with car washing facilities	3
G. Each commercial establishment, hospital, convalescent home, or institution The quantity of water used shall be evidenced by meter readings of water meters installed by water suppliers for the purpose of measuring water purchased from said water supplier and such other meters or measuring devices as may be installed. The quantity of water used during the quarter immediately preceding the date for determination of the number of connections divided by 24,750 gallons shall represent the number of Equivalent Dwelling Units determined in respect of such establishment.	
H. Each motel, hotel, or rooming house Each unit or room shall be evaluated as one-half an Equivalent Dwelling Unit. Where a restaurant or bar room is conducted in conjunction with any motel or hotel, a separate determination for such restaurant or bar room shall be made in accordance with paragraph "G" above.	
I. Industrial Establishments The quantity of water used shall be evidenced by meter readings of water meters installed by water suppliers for the purpose of measuring	

water purchased from said water supplier and such other meters or measuring devices as may be installed. The quantity of water used during the quarter immediately preceding the date for determination of the number of connections divided by 24,750 gallons shall represent the number of Equivalent Dwelling Units determined in respect of such establishment.

275 / day

Where no meter has been installed by the supplier or no other meter or measuring device has been installed, the number of Equivalent Dwelling Units shall be estimated.

- J. Multiple Use. In case of a combination of one or more dwelling or living units with a similar unit or units or with one or more commercial establishments in the same or connected building with each thereof having the use of the Treatment Plant (directly or indirectly) through one sewer connection, then each such private dwelling or living unit and each such commercial establishment shall be evaluated on the basis of the applicable factors for each use thereof as if such use were conducted in a separate structure and as if each such use had a direct and separate connection to a sewer ultimately discharging to the Treatment Plant

